

**TWENTY-SEVENTH DAY - FEBRUARY 17, 2009**

**LEGISLATIVE JOURNAL**

**ONE HUNDRED FIRST LEGISLATURE  
FIRST SESSION**

**TWENTY-SEVENTH DAY**

Legislative Chamber, Lincoln, Nebraska  
Tuesday, February 17, 2009

**PRAYER**

The prayer was offered by Pastor Art Grimm, St. John's Lutheran Church, Beatrice.

**ROLL CALL**

Pursuant to adjournment, the Legislature met at 10:00 a.m., President Sheehy presiding.

The roll was called and all members were present except Senators Janssen and White who were excused; and Senators Cornett, Dierks, and Heidemann who were excused until they arrive.

**CORRECTIONS FOR THE JOURNAL**

The Journal for the twenty-sixth day was approved.

**COMMITTEE REPORTS**

Enrollment and Review

**LEGISLATIVE BILL 142.** Placed on Select File with amendment.  
ER8018

- 1 1. Strike the original sections and all amendments
- 2 thereto and insert the following new sections:
- 3 Section 1. Section 54-1,100, Reissue Revised Statutes of
- 4 Nebraska, is amended to read:
- 5 54-1,100 A recorded brand is the property of the person
- 6 causing such record to be made and is subject to sale, assignment,
- 7 transfer, devise, and descent as personal property. ~~Instruments~~
- 8 Any instrument of writing evidencing the sale, assignment, or
- 9 transfer of a recorded brand shall be recorded by effective upon
- 10 its recording with the Nebraska Brand Committee. No such instrument
- 11 shall be accepted for recording if the brand committee has been
- 12 duly notified of the existence of a lien or security interest
- 13 against livestock owned or thereafter acquired by the owner of such
- 14 brand by the holder of such lien or security interest. Written

15 notification from the holder of such lien or security interest that  
 16 the lien or security interest has been satisfied or consent from  
 17 the holder of such lien or security interest shall be required in  
 18 order for the brand committee to accept for recording an instrument  
 19 selling, assigning, or transferring such recorded brand. The fee  
 20 for recording such an instrument shall be established by the brand  
 21 committee and shall not be more than ~~thirty five~~ forty dollars.  
 22 Such ~~instruments~~ instrument shall give notice to all third persons  
 23 of the matter recorded in the ~~instruments~~ instrument and shall  
 1 be acknowledged by a notary public or any other officer qualified  
 2 under law to administer oaths.  
 3 Sec. 2. Original section 54-1,100, Reissue Revised  
 4 Statutes of Nebraska, is repealed.

**LEGISLATIVE BILL 90.** Placed on Select File with amendment.  
 ER8017

1 1. On page 1, strike beginning with "remove" in line 1  
 2 through line 4 and insert "amend section 29-4204, Reissue Revised  
 3 Statutes of Nebraska; to eliminate certain requirements regarding  
 4 audiovisual court appearances; to repeal the original section; and  
 5 to outright repeal section 29-4203, Reissue Revised Statutes of  
 6 Nebraska.".

(Signed) Jeremy Nordquist, Chairperson

### COMMITTEE REPORTS

Government, Military and Veterans Affairs

**LEGISLATIVE BILL 434.** Placed on General File.

**LEGISLATIVE BILL 348.** Placed on General File with amendment.  
 AM191

1 1. Strike original sections 2 to 4 and insert the  
 2 following new section:  
 3 Sec. 2. Original section 76-214, Revised Statutes  
 4 Cumulative Supplement, 2008, is repealed.

(Signed) Bill Avery, Chairperson

**MESSAGE FROM THE GOVERNOR**

February 12, 2009

Patrick J. O'Donnell  
Clerk of the Legislature  
State Capitol, Room 2018  
Lincoln, NE 68509

Dear Mr. O'Donnell:

Engrossed Legislative Bills 11, 29, 30, 31, 49, 49A, 50, 62e, 154, 179e, 180, and 196 were received in my office on February 6, 2009.

These bills were signed and delivered to the Secretary of State on February 12, 2009.

Sincerely,  
(Signed) Dave Heineman  
Governor

**COMMITTEE REPORT  
Enrollment and Review****Correctly Enrolled**

The following resolution was correctly enrolled: LR11.

(Signed) Jeremy Nordquist, Chairperson

**ENROLLED RESOLUTION**

**LEGISLATIVE RESOLUTION 11.** Introduced by Lathrop, 12; Adams, 24; Cornett, 45; Gay, 14; Harms, 48; Stuthman, 22; Wallman, 30.

WHEREAS, the One Hundredth Legislature, Second Session, 2008, adopted Legislative Resolution 283 to establish the Developmental Disabilities Special Investigative Committee of the Legislature. The committee was authorized to study the quality of care and related staffing issues at the Beatrice State Developmental Center, investigate the placement and quality of care statewide for the developmentally disabled in Nebraska, and determine how and why such services to the developmentally disabled were permitted to decline to the current level as documented by the United States Department of Justice report; and

WHEREAS, the committee issued a report of its findings and recommendations on December 15, 2008. Among other findings the committee concluded that the state is likely to lose its federal medicaid funding for the Beatrice State Developmental Center, that various improvements need to be made to the community-based programs, and that the developmental disability waiting list includes 1,865 families who, absent

some change in direction by the State of Nebraska, will remain on the waiting list indefinitely. The committee also made various recommendations for improvement of services to the developmentally disabled in the State of Nebraska. Those recommendations related not only to improvements at the Beatrice State Developmental Center but community-based programs as well as the provision of services to the developmentally disabled individuals who would otherwise sit indefinitely on the state's waiting lists. To ensure the recommendations of the committee are implemented, the committee recommended that the Legislature continue oversight of these issues: "The LR 283 Committee should be reauthorized at the beginning of the next legislative session. This investigative committee should work with the Health and Human Services Committee to ensure that the terms of the DOJ Consent Decree as well as the recommendations herein are implemented in a timely fashion."

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED FIRST LEGISLATURE OF NEBRASKA, FIRST SESSION:

1. That the Legislature hereby calls for the Executive Board of the Legislative Council to meet forthwith and reappoint the special committee of the Legislature known as the Developmental Disabilities Special Investigative Committee of the Legislature. The committee shall consist of the same seven members of the Legislature appointed by the executive board as follows: Senator Greg Adams, Senator Abbie Cornett, Senator Tim Gay, Senator John Harms, Senator Steve Lathrop, Senator Arnie Stuthman, and Senator Norm Wallman. The chairperson shall be Senator Steve Lathrop. The vice-chairperson shall be Senator John Harms. The executive board is hereby authorized to provide the committee with a legal counsel, committee clerk, and other staff as required by the committee from existing legislative staff. The executive board is also authorized to hire outside legal counsel, consultants, and investigators as required by the committee. The committee shall be an investigative committee and is hereby authorized to hold hearings and issue subpoenas as is deemed necessary by the committee.

2. The Developmental Disabilities Special Investigative Committee of the Legislature is hereby authorized to continue to study the quality of care and related staffing issues at the Beatrice State Developmental Center. The committee shall also continue to investigate the placement and quality of care statewide for the developmentally disabled in Nebraska, including the determination of whether adequate funding and capacity exists for persons to be served in the community, options for service provisions for current residents of the Beatrice State Developmental Center at other twenty-four-hour care facilities in the state, and the staffing practices at twenty-four-hour care facilities and the relationship of those practices to the quality of care provided to the developmentally disabled. The committee shall also provide oversight to ensure that the terms of the United States Department of Justice Consent Decree and the recommendations from the Report of the Developmental Disabilities Special Investigative Committee dated December 15, 2008, are implemented in a timely fashion.

3. The Developmental Disabilities Special Investigative Committee of the Legislature shall issue a report with its findings as the circumstances warrant.

4. The Developmental Disabilities Special Investigative Committee of the Legislature is hereby authorized to continue its work until the beginning of the One Hundred Second Legislature, First Session.

### **PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following: LR11.

### **NOTICE OF COMMITTEE HEARINGS**

General Affairs

Room 1510

Monday, March 2, 2009 1:30 p.m.

LB286

LB287

LB415

Monday, March 9, 2009 1:30 p.m.

LB411

LB498

LB500

LB443

(Signed) Russ Karpisek, Chairperson

### **MESSAGES FROM THE GOVERNOR**

February 10, 2009

Mr. President, Speaker Flood  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed to the Nebraska Educational Telecommunications Commission:

Kim Dinsdale, 1919 West LaMar Ave., Grand Island, NE 68803

The aforementioned appointee is respectfully submitted for your

consideration. Copies of the certificate of appointment and background information are included for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

February 10, 2009

Mr. President, Speaker Flood  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individual is being appointed to the Nebraska Environmental Trust Board:

Rodney Christen, 71850 617th Avenue, Steinauer, NE 68441

Contingent upon your approval, the following individuals are being reappointed to the Nebraska Environmental Trust Board:

Robert Krohn, 1427 South 85th Avenue, Omaha, NE 68124  
Barbara Batie, 43590 Road 761, Lexington, NE 68850

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificates of appointment and background information are included for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

February 11, 2009

Mr. President, Speaker Flood  
and Members of the Legislature  
State Capitol Building  
Lincoln, NE 68509

Dear Mr. President, Speaker Flood and Members of the Legislature:

Contingent upon your approval, the following individuals are being appointed to the Board of Emergency Medical Services:

Dr. Theresa Hatcher, 101 Martin Drive, Bellevue, NE 68005  
Troy Hiemer, 310 5th Street, Columbus, NE 68601

The aforementioned appointees are respectfully submitted for your consideration. Copies of the certificates of appointment and background information are included for your review.

Sincerely,  
(Signed) Dave Heineman  
Governor

Enclosures

### **AMENDMENT - Print in Journal**

Senator Howard filed the following amendment to LB92:  
AM328

(Amendments to Standing Committee amendments, AM305)

1. On page 2, strike lines 18 and 19.

### **ANNOUNCEMENT**

The Chair announced today is Senator Harms' birthday.

### **RESOLUTIONS**

Pursuant to Rule 4, Sec. 5(b), LRs 20 and 21 were adopted.

### **PRESIDENT SIGNED**

While the Legislature was in session and capable of transacting business, the President signed the following: LRs 20 and 21.

### **SELECT FILE**

**LEGISLATIVE BILL 74.** Senator Pirsch renewed his amendment, AM284, found on page 444.

The Pirsch amendment was adopted with 39 ayes, 0 nays, 7 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 259.** ER8013, found on page 375, was adopted.

Senator Utter renewed his amendment, AM196, found on page 404.

The Utter amendment was adopted with 35 ayes, 0 nays, 11 present and not voting, and 3 excused and not voting.

Advanced to Enrollment and Review for Engrossment.

**LEGISLATIVE BILL 5.** ER8014, found on page 399, was adopted.

Senator Stuthman offered the following amendment:

AM345

(Amendments to E & R amendments, ER8014)

- 1 1. Strike section 2.
- 2 2. On page 1, reinstate the stricken matter beginning
- 3 with "It" in line 10 through "that" in line 11; in line 13 strike
- 4 "Any" and insert "any"; and in line 14 strike "prohibiting" and
- 5 insert "allowing".
- 6 3. Renumber the remaining sections and correct the
- 7 repealer accordingly.

Senator Stuthman moved for a call of the house. The motion prevailed with 30 ayes, 0 nays, and 19 not voting.

Senator Stuthman requested a roll call vote, in reverse order, on his amendment.

Voting in the affirmative, 15:

Ashford	Haar	McGill	Pankonin	Sullivan
Campbell	Howard	Nordquist	Pirsch	Utter
Cornett	Lathrop	Pahls	Stuthman	Wightman

Voting in the negative, 29:

Adams	Council	Giese	Karpisek	Nantkes
Avery	Dierks	Gloor	Langemeier	Nelson
Carlson	Dubas	Hadley	Lautenbaugh	Price
Christensen	Fischer	Hansen	Louden	Schilz
Coash	Flood	Harms	McCoy	Wallman
Cook	Fulton	Heidemann	Mello	

Present and not voting, 3:

Friend	Gay	Rogert
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Excused and not voting, 2:

Janssen	White
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The Stuthman amendment lost with 15 ayes, 29 nays, 3 present and not voting, and 2 excused and not voting.

The Chair declared the call raised.

Senator Lathrop offered the following amendment:

AM347

(Amendments to E & R amendments, ER8014)

- 1 1. On page 1, after line 16, insert the following new
- 2 subdivision:
- 3 "(b) Any person trapping wildlife in the county road
- 4 right-of-way shall be civilly liable for any damage or harm to
- 5 another person or any domestic animal. For purposes of this
- 6 subdivision, domestic animal means any horse, dog, or cat, and cat
- 7 means a cat which is a household pet."; and in line 17 strike
- 8 "(b)", show as stricken, and insert "(c)".

Pending.

### AMENDMENT - Print in Journal

Senator Haar filed the following amendment to LB53:

AM340

- 1 1. Insert the following new section:
- 2 Sec. 5. Section 70-670, Reissue Revised Statutes of
- 3 Nebraska, is amended to read:
- 4 70-670 In addition to any other rights and powers
- 5 hereinabove conferred upon any district organized under or subject
- 6 to Chapter 70, article 6, each such district shall have and
- 7 exercise the power of eminent domain to acquire from any person,
- 8 firm, association, or private corporation any and all property
- 9 owned, used, or operated, or useful for operation, in the
- 10 generation, transmission, or distribution of electrical energy,
- 11 including an existing electric utility system or any part thereof,
- 12 except that such district may not exercise the power of eminent
- 13 domain over any property outside the chartered territory of the
- 14 district. The procedure to condemn property shall be exercised
- 15 in the manner set forth in Chapter 76, article 7. In the case
- 16 of the acquisition through the exercise of the power of eminent
- 17 domain of an existing electric utility system or part thereof, the
- 18 Attorney General shall, upon request of any district, represent
- 19 such district in the institution and prosecution of condemnation
- 20 proceedings. After acquisition of an existing electric utility
- 21 system through the exercise of the power of eminent domain, the
- 22 district shall reimburse the state for all costs and expenses
- 23 incurred in the condemnation proceedings by the Attorney General.
- 1 2. Amend the repealer and renumber the remaining sections
- 2 accordingly.

**MOTION - Print in Journal**

Senator Haar filed the following motion to LB53:

MO13

Bracket until June 4, 2009.

**AMENDMENT - Print in Journal**

Senator Langemeier filed the following amendment to LB5:

FA12

Amend ER8014

Line 13, strike "enact a" and in line 14 strike "resolution" and insert "regulate by resolution".

**UNANIMOUS CONSENT - Add Cointroducer**

Senator Gloor asked unanimous consent to add his name as cointroducer to LB113. No objections. So ordered.

**VISITORS**

Visitors to the Chamber were Senator Nordquist's brother, Luke Nordquist, from Omaha; Ted and Ramona Thieman from Petersburg; Senator Harms' wife, Patricia Harms, from Scottsbluff; and members of Leadership Tomorrow from Grand Island.

The Doctor of the Day was Dr. David Hoelting from Pender.

**ADJOURNMENT**

At 11:57 a.m., on a motion by Speaker Flood, the Legislature adjourned until 9:00 a.m., Wednesday, February 18, 2009.

Patrick J. O'Donnell  
Clerk of the Legislature